

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85760361
LAW OFFICE ASSIGNED	LAW OFFICE 118
MARK SECTION (no change)	
ARGUMENT(S)	
Please see the actual argument text attached within the Evidence section.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_389814067-120902830_.43471000006_ROA_08-30-2013.pdf
CONVERTED PDF FILE(S) (18 pages)	\\TICRS\EXPORT16\IMAGEOUT16\857\603\85760361\xml7\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\603\85760361\xml7\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\603\85760361\xml7\RFR0004.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\857\603\85760361\xml7\RFR0007.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\857\603\85760361\xml7\RFR0018.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\857\603\85760361\xml7\RFR0019.JPG
DESCRIPTION OF EVIDENCE FILE	Remarks including Exhibits A and B
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Angelo Bufalino/
SIGNATORY'S NAME	Angelo Bufalino
SIGNATORY'S POSITION	Attorney for Applicant, IL Bar Member
SIGNATORY'S PHONE NUMBER	312-609-7850
DATE SIGNED	02/17/2014
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Feb 17 15:12:28 EST 2014
TEAS STAMP	USPTO/RFR-38.98.140.67-20 140217151228359685-857603 61-50082bc954fddd2fd8e2b6 43c3cb6dd1fc9632ec7dac52c e6141f652068c26c8-N/A-N/A -20140217151047460676

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85760361** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Please see the actual argument text attached within the Evidence section.

EVIDENCE

Evidence in the nature of Remarks including Exhibits A and B has been attached.

Original PDF file:

[evi_389814067-120902830_.43471000006_ROA_08-30-2013.pdf](#)

Converted PDF file(s) (18 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

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[Evidence-12](#)

[Evidence-13](#)

[Evidence-14](#)

[Evidence-15](#)

[Evidence-16](#)

[Evidence-17](#)

[Evidence-18](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Angelo Bufalino/ Date: 02/17/2014

Signatory's Name: Angelo Bufalino

Signatory's Position: Attorney for Applicant, IL Bar Member

Signatory's Phone Number: 312-609-7850

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85760361

Internet Transmission Date: Mon Feb 17 15:12:28 EST 2014

TEAS Stamp: USPTO/RFR-38.98.140.67-20140217151228359

685-85760361-50082bc954fddd2fd8e2b643c3c

b6dd1fc9632ec7dac52ce6141f652068c26c8-N/

A-N/A-20140217151047460676

Appl. No.: 85/760,361



Mark: MOUSTACHE

Client: 43471.00.0006

Re: Response to OA mailed August 30, 2013

Remarks

In the final Office Action mailed August 30, 2013 (the "Office Action"), the Examining Attorney refused registration of Applicant's applied-for mark based on a likelihood of confusion with the marks listed below:

Mark	Reg. No.	ID of goods and services
	1,256,393	restaurant and cafeteria type services, including preparing and serving alcoholic and non-alcoholic beverages
	3,741,577	restaurant and take-out restaurant services featuring baked and unbaked pizza, breadsticks, calzone, lasagna and garlic bread, cookies and soft drinks, all for customer take-out or consumption on premises

Applicant applied for registration of the mark MOUSTACHE ("Applicant's Mark") for use in connection with restaurant services in class 43. Applicant disagrees that Applicant's Mark is likely to be confused with the marks shown above for the reasons set forth below.

Reg. No. 1,256,393

The first cited mark, Reg. No. 1,256,393 (the "'393 Mark'"), is not likely to be confused with Applicant's Mark because the '393 Mark is not an active mark and is not being used in commerce. Only an active registration may be used as the basis for a rejection under § 2(d). 15 U.S.C. § 1052 and TMEP § 1207.01.

The '393 Mark was registered on November 1, 1983 (See TSDR Report, attached as Exhibit A). As such, both a Section 8 declaration and a Section 9 renewal application were due to be filed on or before November 1, 2013. TMEP §§ 1604.04 and 1606.03. The '393 Mark is currently in the six-month grace period, which will expire on May 1, 2014. Accordingly, Applicant respectfully requests suspension of the present application until the '393 Mark has expired or been renewed. TMEP § 716.02(e) ("[I]f the examining attorney is ready to

issue a denial of a request for reconsideration of a final refusal of registration under §2(d), and the cited registration is in the grace period for filing a §8 or §71 affidavit or §9 renewal application, the examining attorney must suspend action.”).

The Office Action alleges that “the registration and renewal application was registered on June 1, 2004 and thus registration maintenance documents for the cited registration(s) are not due until December 2014.” The Office Action further states that because of this, “any request to suspend the application will be denied.” In response, Applicant respectfully submits that the deadline for submitting either a Section 8 declaration or a Section 9 renewal application is determined based on the mark’s registration date, not the date on which the most recent renewal occurred. Additionally, as indicated in the TSDR printout attached in Exhibit A, the renewal date for the ‘393 Mark is November 1, 2003, not June 1, 2004 as alleged by the Office Action. As such, for at least the reasons given above, Applicant respectfully submits that a suspension is proper in this case and earnestly requests such action.

Reg. No. 3,741,577

Applicant’s Mark is also refused based on a likelihood of confusion with a second cited mark, Reg. No. 3,741,577 (the “577 Mark”). Applicant disagrees that there is a likelihood of confusion which would prevent registration.

In determining whether a likelihood of confusion exists between a pictorial mark and its word equivalent, the question is whether the pictorial representation is likely to cause consumers to recall the literal word, or vice versa. *See, e.g., In re Hungry Pelican, Inc.*, 219 U.S.P.Q. 1202, 1203–04 (T.T.A.B. 1983) (citing cases). Further, as noted by the Examining Attorney, a pictorial depiction may be confusingly similar to the equivalent wording where both are “likely to impress the same mental image on purchasers.” TMEP § 1207.01(c)(i); *see, e.g., In re Rolf Nilsson AB*, 230 U.S.P.Q. 141 (T.T.A.B. 1986). “Ultimately, the issue is not a technical one of design-word ‘translation,’ but depends on the overall commercial impressions of the marks seen from the ordinary consumer’s perspective.” *Likelihood of Confusion in Trademark Law*, 2nd Edition, PLI, 2013, Richard L. Kirkpatrick, § 4:3.3.

As noted by the Second Circuit, “words and their pictorial representations should not be equated as a matter of law.” *Mobil Oil Corp. v. Pegasus Petroleum Corp.*, 818 F. 2d 254, 257 (2d Cir. 1987). Instead, the determination is a factual matter. *Id.* For example, in *Izod, Ltd. v. Zip Hosiery Company*, the Court of Customs and Patent Appeals found it necessary to consider how the relevant consuming public would perceive the marks in determining whether a pictorial representation of a tiger was likely to be confused with the mark TIGER HEAD. 405 F.2d 575 (1969). Further, where a design mark is highly stylized, such that a consumer is unlikely to connect the

design with the word equivalent, no likelihood of confusion exists. *In re Serac, Inc.*, 218 U.S.P.Q. 340, 341 (T.T.A.B. 1983).

Accordingly, it is necessary to consider the context in which the relevant consumers might encounter Applicant's Mark and the '577 Mark and determine how these marks will be perceived. In other words, a comparison must be made between the "mental images" produced by each of the marks in the mind of a consumer who encounters the marks as they are used in commerce.

With this framework in mind, careful consideration of the context in which consumers encounter these marks reveals there is no likelihood of confusion between the '577 Mark and Applicant's Mark. The owner of the '577 Mark, Figaro's Italian Pizza, Inc. of Salem, Oregon ("Figaro's"), operates a chain of pizza restaurants. Figaro's website is available for review by the Examining Attorney at: <http://www.figaros.com/>. An image of Figaro's website is provided below:

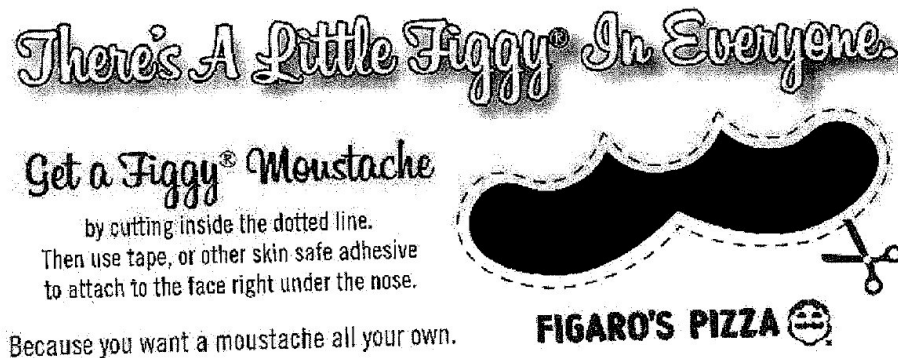


As shown above, Figaro's generally uses the '577 Mark in conjunction with the name "Figaro's Pizza" and a cartoon face of a man. As shown in the TSDR printout attached in Exhibit B, this cartoon face is itself a registered mark, U.S. Reg. No. 3,004,272 (the "272 Mark"). An image of this mark is reproduced below:



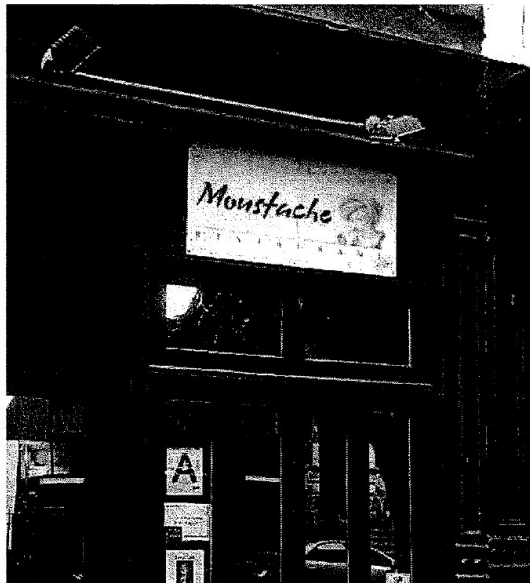
Where the '577 Mark appears with the term "Figaro's Pizza" or with the '272 Mark, consumers would think of "Figaro" or "Figaro's Pizza" rather than the equivalent term MOUSTACHE.

Similarly, in some instances, Figaro's uses the '577 Mark in conjunction with the name "Figgy," as shown below in the specimen of use submitted to the U.S. Patent and Trademark Office:



As shown above, Figaro's describes the '577 Mark in advertising as being "a Figgy Moustache." Accordingly, a consumer encountering the '577 Mark alone would refer to it as being "a Figgy Moustache" rather than by the plain word equivalent MOUSTACHE. Indeed, the plain word equivalent MOUSTACHE is never used to identify Figaro's. Accordingly, Applicant respectfully submits that customers would not use the wording "moustache" to refer to Figaro's goods and services; instead, they would reference the particular stylized moustache shown in the '577 Mark as a "Figgy Moustache".

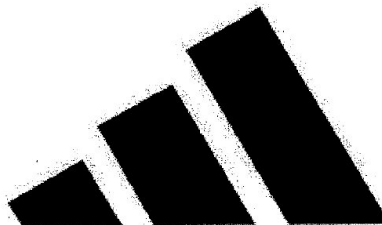
In contrast to the '577 Mark, Applicant's Mark is MOUSTACHE. Applicant's Mark is used as the name of Applicant's business. An example of Applicant's Mark in use is provided by Applicant's specimen of use, a portion of which is reproduced below:






Imagine the conversation that would need occur for a consumer to be confused as to the source of restaurant services offered under the '577 Mark and Applicant's Mark:






MAN: Where would you like to go to dinner tonight?
WOMAN: I saw an advertisement in the newspaper for a new place that just opened up; let's go there.
MAN: Alright, let's look at the advertisement to get the address.
WOMAN: I don't have it; I already recycled the newspaper.
MAN: Do you remember the name of the restaurant?
WOMAN: I know it had a name, I just can't remember it.
MAN: Do you remember anything from the ad?
WOMAN: Just that there was an image of a cartoon mustache.
MAN: Was there anything else? Were there any words or other images?
WOMAN: I'm not sure; all I remember is that there was a stylized moustache.
MAN: OK, I guess we can look up "MOUSTACHE" in the phone book.





Clearly, this scenario is ridiculous. No customer would think, merely because they remembered seeing a stylized moustache in an advertisement or on a pizza box, that the name of the restaurant was MOUSTACHE. This would be comparable to a consumer seeing Adidas' stylized design of three stripes, U.S. Reg. No. 3,901,863 (reproduced below), and trying to locate a shoe company using the word equivalent THREE STRIPES.




Additionally, where each of two marks has an aura of suggestion, but each suggests something different to the buyer, this tends to indicate that a likelihood of confusion does not exist. *McCarthy on Trademarks*, § 23:28. A stylized moustache design such as the '577 Mark is often used to suggest a connection with Italian food in general or pizza in particular. For example, the marks listed below all include a stylized moustache and are used in connection with Italian food in Class 43:

Mark	Reg. No.	ID of goods and services
	4,324,288	Class 043: Restaurant services featuring pizza, pasta, entrees, soft drinks, salads and desserts
	3,690,518	Class 030: Pizza
	3,642,540	Class 029: Pizza, pizza sauce, lasagna, calzones, spaghetti, spaghetti and meatballs, spaghetti sauce, ravioli, pasta sauce, bread, bread sticks Class 043: Restaurant services

	3,662,975	Class 043: Restaurant services
	3,662,947	Class 043: Restaurant services
	4,304,290	Class 043: Pizza parlors; restaurant and catering services
	4,225,178	Class 043: Pizza parlors; restaurant services
	4,018,892	<p>Class 029: Fried green plantain dumplings; mashed potato balls stuffed with beef, chicken or cheese; mini mashed potato balls</p> <p>Class 030: Diverse frozen food appetizers, namely, tacos filled with beef, chicken, cheese and chicken, cheese and beef or lasagna flavored marinara sauce and mozzarella; Empanadillas, namely, turnovers filled with cheese pizza flavored marinara sauce and mozzarella, cheese, pepperoni, beef, chicken, cheese and chicken or beef and cheese; Pastelillos, namely, small turnovers filled with beef, cheese, guava paste, cheese pizza flavored marinara sauce and mozzarella, pepperoni or chicken; Corn sticks filled with cheese; Turnovers shells; Arepas, namely, plain corn flour patties; Arepas, namely, corn flour patties stuffed with coconut; Mini meat turnovers; Mini tacos; Mini corn</p>

		sticks
	3,323,824	Class 043: Dine in and take out restaurant services featuring pizza, Italian related cuisine and drinks
	4,043,711	Class 043: Restaurant services featuring Italian cuisine, primarily pizza, pasta, submarine sandwiches and salads; restaurant services, including sit-down service of food and take-out restaurant services
	3,962,636	Class 030: Pizza; open faced breakfast sandwiches consisting of meat, cheese, eggs, sauce and/or gravy and/or vegetables
	3,105,712	<p>Class 029: Cheese, namely whole-milk and part-skim milk mozzarella, and whole-milk and part-skim milk ricotta; processed vegetables, namely, canned straw mushroom; canned beans, including red kidney beans, cannellini beans, and chick peas; and, processed tomato products, namely, peeled tomatoes, crushed tomatoes, tomato puree, tomato paste; appetizers and condiments, namely, black olive pate, roasted peppers, and bottled and canned ripe olives; cooking and salad oils, including virgin olive oil, corn oil, blended oil, and salad oil; meat, namely, packaged meats, chicken parts, bacon bits, smoked and cured hams, sopresatta sweet, sopresatta hot, cappicola sweet, cappicola hot, Milano salami, and nostrano salami</p> <p>Class 030: baked goods and bakery products, namely breads, hot dog and hamburger rolls, plain and flavored bread crumbs, pastries, pies, cookies, panettones, eclairs, candy, marzipan, icing, and chocolate chips; ice cream and frozen yogurt; cereals, prepared foods, and sauces, namely breakfast cereals, corn</p>

		<p>flakes, granola, rice, instant rice, pasta, macaroni, spaghetti, gnocchi, tomato sauce, homestyle spaghetti sauce, marinara sauce, ketchup, pizza sauce, hot sauce, whole and sliced garlic in oil, capers, sundried tomato pesto, red pepper pesto, and Genovese pesto; spices, namely all-spice, whole and ground anise, arrowroot, dried basil, bay leaves, barbecue seasoning, whole caraway seeds, whole and ground celery seeds, celery flakes, celery salt, chili powder, cinnamon sticks, ground cinnamon, whole and ground cloves, whole and ground coriander, cream of tartar, whole and ground cumin, curry powder, whole dill seed, dill weed, whole and ground fennel, whole and ground ginger, granulated and minced garlic, garlic powder, garlic salt, chopped garlic, Italian seasoning, lemon pepper, whole and ground marjoram, mint leaves, whole and ground mustard, meat tenderizer, whole and ground nutmeg, granulated and chopped onion, onion powder, minced onion, onion salt, oregano, Spanish paprika, parsley flakes, whole and ground black pepper, course black pepper, whole and ground white pepper, cayenne pepper, crushed red pepper, ground red pepper, pickling spice, poultry seasoning, poppy seeds, rosemary, rubbed sage, whole and ground sage, sesame seed, mixed dehydrated vegetables, tarragon leaves, thyme leaves and ground thyme, and turmeric; vinegars, namely balsamic vinegar</p>
	3,582,732	<p>Class 030: fresh and frozen pizza, pasta, sandwiches, calzones and macaroni, rice and pasta salads</p>

Accordingly, in the context of “restaurant and take-out restaurant services featuring baked and unbaked pizza, breadsticks, calzone, lasagna and garlic bread, cookies and soft drinks, all for customer take-out or consumption on premises” a stylized moustache design such as the ‘577 Mark is suggestive of Italian food.

In contrast, Applicant's word mark MOUSTACHE is not commonly associated with restaurant services. Applicant's Mark is fanciful or arbitrary. The stark contrast in connotation between Applicant's Mark and the '577 Mark in the mind of a consumer clearly indicates that no likelihood of confusion exists. See, e.g., *Revlon, Inc. v. Jerell, Inc.*, 713 F. Supp. 93, 11 U.S.P.Q. 2d 1612, 1616 (S.D.N.Y. 1989) ("Such differences of connotation and meaning are key factors in determining the likelihood of confusion. Differing connotations themselves can be determinative, even where identical words with identical meanings are used.") (emphasis added). For example, despite the similar appearance of the marks, the Board found no likelihood of confusion existed between the mark HARD ROCK CAFE for a restaurant and the mark COUNTRY ROCK CAFE for a restaurant because the marks evoked "quite different images for consumers in view of the distinctions between these styles of music." *Hard Rock Cafe Licensing Corp. v. Elsea*, 48 U.S.P.Q. 2d 1400 (T.T.A.B. 1998). Here, the impression created for a consumer by the mustache design shown in the '577 Mark clearly differs from that of Applicant's Mark.

Finally, Applicant respectfully directs the Examining Attorney to the Board's decision *In re Hartz Hotel Services, Inc.*, Serial No. 76/692,673 (2012), where the Board found that in some circumstances the strength of registered marks, the number and nature of similar marks in use in connection with similar goods, and the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression may be critical factors in analyzing whether a likelihood of confusion exists between two marks. In fact, a single one of these criteria can dictate whether a likelihood of confusion exists.

In *In re Hartz Hotel Services, Inc.*, the applicant sought to register GRAND HOTELS NYC for hotel services. The applicant directed the Board to five registered marks on the registry for (a) THE GRAND HOTEL AT MOUNTAINEER, (b) THE SOUTH'S GRAND HOTEL, (c) ANCHORAGE GRAND HOTEL & Design, (d) LOUISVILLE'S GRAND HOTEL and (e) FORT LAUDERDALE GRANDE HOTEL & YACHT CLUB. These marks all contained either GRAND or GRANDE and HOTEL. Despite the presence on the registry of these highly similar marks for the same services, the Board found the applicant was entitled to registration.

In the present case, the '577 Mark was allowed to register despite the presence of the '393 Mark on the Principal Register. The '577 Mark could never have been granted registration if it was confusingly similar to the '393 mark. For at least similar reasons, Applicant's Mark is not confusingly similar to the '577 Mark.

Additionally, as listed above, at least thirteen other registered marks peacefully co-exist on the Principal Register containing a moustache similar to the stylized design of the '577 Mark. Under the precedent set by *In re Hartz*

Hotel Services, Inc., the coexistence of these registrations indicates no likelihood of confusion exists between the '577 Mark and Applicant's Mark.

For the reasons stated above, no consumer would be confused as to the source of the services provided in connection with Applicant's Mark in light of the '577 Mark. Applicant respectfully requests reconsideration and withdrawal of the refusal.

CONCLUSION

Applicant believes that all bases for refusal have been rebutted and respectfully requests that prosecution be suspended until either the grace period for renewing the '393 Mark has passed or the '393 Mark has been renewed. Alternatively, Applicant respectfully requests allowance and publication of Applicant's Mark. If any of the attached evidence or links thereto require clarification or resubmission or if direct communication will further prosecution of this application, the Examining Attorney is invited to contact the Applicant's undersigned representative at the contact information included below.

Respectfully submitted,

Dated: February 17, 2014

By: /Angelo Bufalino/
Angelo Bufalino

VEDDER, PRICE, P.C.
222 N. LaSalle St., Suite 2400
Chicago, Illinois 60601
(312) 609-7850 (telephone)
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Appl. No.: 85/760,361

Mark: MOUSTACHE

Client: 43471.00.0006

Re: Response to OA mailed August 30, 2013

Exhibit A

Generated on: This page was generated by TSDR on 2014-02-13 14:31:40 EST

Mark: MOUSTACHE

Moustache

US Serial Number: 73176541

Application Filing Date: Jun. 29, 1978

US Registration Number: 1256393

Registration Date: Nov. 01, 1983

Register: Principal

Mark Type: Service Mark

Status: The registration has been renewed.

Status Date: Jun. 01, 2004

Publication Date: Aug. 05, 1980

Mark Information

Mark Literal Elements: MOUSTACHE

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services.
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Restaurant and Cafeteria Type Services, Including Preparing and Serving Alcoholic and Non-Alcoholic Beverages

International Class(es): 042 - Primary Class

U.S Class(es): 100

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 27, 1977

Use in Commerce: Jun. 27, 1977

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Moustache Cafe and Restaurant, Inc.

Owner Address: 8155 Melrose Avenue
Los Angeles, CALIFORNIA 90046
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where
Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: HAN YU

Docket Number: 63621-00001

Correspondent

Correspondent Name/Address: HAN YU
SQUIRE, SANDERS & DEMPSEY LLP
801 S FIGUEROA ST 14TH FL
LOS ANGELES, CALIFORNIA 90017-5554
UNITED STATES

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 07, 2008	CASE FILE IN TIGRS	
Jun. 01, 2004	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
Jun. 01, 2004	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Apr. 08, 2004	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Apr. 08, 2004	TEAS SECTION 8 & 9 RECEIVED	
Jun. 13, 1989	REGISTERED - SEC. 8 (6-YR) ACCEPTED	
Mar. 13, 1989	REGISTERED - SEC. 8 (6-YR) FILED	
Mar. 13, 1989	RESPONSE RECEIVED TO POST REG. ACTION	
Mar. 13, 1989	REGISTERED - SEC. 8 (6-YR) FILED	
Feb. 10, 1989	POST REGISTRATION ACTION MAILED - SEC. 8	
Feb. 10, 1989	POST REGISTRATION ACTION MAILED - SEC. 8	
Nov. 22, 1988	REGISTERED - SEC. 8 (6-YR) FILED	
Nov. 14, 1988	REGISTERED - SEC. 8 (6-YR) FILED	
Nov. 01, 1983	REGISTERED-PRINCIPAL REGISTER	
Nov. 01, 1983	REGISTERED-PRINCIPAL REGISTER	
Nov. 01, 1983	REGISTERED-PRINCIPAL REGISTER	
Jul. 26, 1983	CONCURRENT USE PROC. INSTITUTED NO. 999999	477
Jul. 01, 1980	NOTICE OF PUBLICATION	
Feb. 06, 1980	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 14, 1979	LETTER OF SUSPENSION MAILED	
Nov. 25, 1978	ASSIGNED TO EXAMINER	
Oct. 25, 1978	ASSIGNED TO EXAMINER	
Aug. 29, 1978	ASSIGNED TO EXAMINER	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Renewal Date: Nov. 01, 2003

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: SCANNING ON DEMAND

Date in Location: May 07, 2008

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Moustache Cafe and Restaurant, Inc.

Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOOD WILL ON OR ABOUT AUGUST 1979

Reel/Frame: 0357/0512

Pages: 1

Date Recorded: Oct. 15, 1979

Supporting Documents: No Supporting Documents Available

Assignor

Name: MOUSTACHE CAFE AS A GENERAL PARTNER
OF MOUSTACHE CAFE AND RESTAURANT,
INC., A CORP. OF CALIF.

Execution Date: Not Found

Legal Entity Type: LIMITED PARTNERSHIP

State or Country Where Organized: No Place Where Organized Found

Name: MOUSTACH CAFE AND RESTAURANT, INC. AS
GENERAL PARTNER

Execution Date: Not Found

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Assignee

Name: MOUSTACHE CAFE AND RESTAURANT INC.

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Address: 1071 GLENDAN AVE.
LOS ANGELES, CALIFORNIA 90024

Correspondent

Correspondent Name: ROMNEY SCHAAP, ET AL.

Correspondent Address: SIXTH FLOOR
9720 WILSHIRE BLVD.
BEVERLY HILLS, CA 90212

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOOD WILL ABOUT AUG. 1979

Reel/Frame: 0378/0801

Pages: 1

Date Recorded: Oct. 27, 1980

Supporting Documents: No Supporting Documents Available

Assignor

Name: MOUSTACHE CAFE

Execution Date: Not Found

Legal Entity Type: LIMITED PARTNERSHIP

State or Country Where Organized: No Place Where Organized Found

Composed Of: COMPOSED OF MOUSTACHE CAFE AND
RESTAURANT, INC. ACORP. OF CALIF.

Assignee

Name: MOUSTACHE CAFE AND RESTAURANT, INC.

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Address: 1071 GLENDON AVE.
LOS ANGELES, CALIFORNIA 90024

Correspondent

Correspondent Name: ROMNEY, SCHAAP ET AL.

Correspondent Address: 9720 WILSHIRE BLVD.
BEVERLY HILLS, CA 90212

Domestic Representative - Not Found

Appl. No.: 85/760,361

Mark: MOUSTACHE

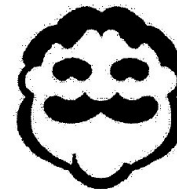
Client: 43471.00.0006

Re: Response to OA mailed August 30, 2013

Exhibit B

Generated on: This page was generated by TSDR on 2014-02-14 15:25:38 EST

Mark:



US Serial Number: 78469072
US Registration Number: 3004272

Application Filing Date: Aug. 17, 2004
Registration Date: Oct. 04, 2005

Register: Principal

Mark Type: Service Mark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Oct. 26, 2011

Publication Date: Jul. 12, 2005

Mark Information

Mark Literal Elements: None

Standard Character Claim: No

Mark Drawing Type: 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)

Design Search Code(s): 02.01.01 - Busts of men facing forward; Portraiture of men facing forward; Men - heads, portraiture, or busts facing forward; Heads of men facing forward
02.01.31 - Men, stylized, including men depicted in caricature form
02.11.06 - Toupees; Mustaches; Human hair, locks of hair, wigs, beards, mustaches; Hair extensions; Hair; Wigs; Beards

Related Properties Information

Claimed Ownership of US 2087824
Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [] indicate deleted goods/services
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks * * identify additional (new) wording in the goods/services

For: retail pizza store services featuring baked and unbaked pizza, breadsticks, calzone, lasagna and garlic bread, cookies and soft drinks, all for customer take-out or consumption on premises

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 24, 2004

Use in Commerce: Mar. 24, 2004

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Figaro's Italian Pizza, Inc.
Owner Address: 1500 Liberty Street SE

Salem, OREGON 97302
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: OREGON

Attorney/Correspondence Information

Attorney of Record

Attorney Name: John M. McCormack

Docket Number: FGO436

Correspondent

Correspondent Name/Address: John M. McCormack
KOLISCH HARTWELL, P.C.
520 SW YAMHILL ST STE 200
PORTLAND, OREGON 97204-1324
UNITED STATES

Phone: 503-224-6655

Fax: 503-295-6679

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 26, 2011	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - MAILED	
Oct. 26, 2011	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67723
Oct. 26, 2011	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723
Oct. 04, 2011	TEAS SECTION 8 & 15 RECEIVED	
Oct. 04, 2005	REGISTERED-PRINCIPAL REGISTER	
Jul. 12, 2005	PUBLISHED FOR OPPOSITION	
Jun. 22, 2005	NOTICE OF PUBLICATION	
Apr. 05, 2005	LAW OFFICE PUBLICATION REVIEW COMPLETED	76984
Mar. 30, 2005	ASSIGNED TO LIE	76984
Mar. 23, 2005	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 22, 2005	EXAMINER'S AMENDMENT MAILED	
Mar. 22, 2005	EXAMINERS AMENDMENT -WRITTEN	77875
Mar. 19, 2005	ASSIGNED TO EXAMINER	77875
Aug. 25, 2004	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 113

Date in Location: Oct. 26, 2011